

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21080

Application 31100T of **Monterey Peninsula Water Management District**
P.O. Box 85
Monterey, CA 93942-0085

filed on **August 31, 2000**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Carmel River (Subterranean Stream)

Tributary to

Pacific Ocean

within the County of **Monterey**

2. Location of points of diversion and redirection

By California Coordinate System in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
San Clemente Dam; North 412,600 feet and East 1,203,650 feet	NW¼ of SW¼	24	17S	2E	MD
Canada Well; North 451,600 feet and East 1,153,800 feet	NE¼ of SW¼	17	16S	1E	MD
San Carlos Well; North 451,250 and East 1,156,600 feet	NE¼ of SE¼	17	16S	1E	MD
Cypress Well; North 447,200 feet and East 1,163,250 feet	SW¼ of NW¼	22	16S	1E	MD
Pearce Well; North 446,950 feet and East 1,164,750 feet	SE¼ of NW¼	22	16S	1E	MD
Schulte Well; North 447,000 feet and East 1,167,850 feet	SW¼ of NW¼	23	16S	1E	MD
Manor #2 Well; North 446,050 feet and East 1,169,950 feet	NE¼ of SW¼	23	16S	1E	MD

Begonia #2 Well; North 445,100 feet and East 1,173,350 feet	NW¼ of SW¼	24	16S	1E	MD
Berwick #7 Well; North 444,050 feet and East 1,173,900 feet	SW¼ of SW¼	24	16S	1E	MD
Berwick #8 Well; North 444,100 feet and East 1,174,700 feet	SE¼ of SW¼	24	16S	1E	MD
Scarlett #6 Well; North 444,150 feet and East 1,179,350 feet	SW¼ of SW¼	19	16S	2E	MD
Scarlett #8 Well; North 444,100 feet and East 1,179,200 feet	SW¼ of SW¼	19	16S	2E	MD
Stanton Well; North 442,600 feet and East 1,180,950 feet	NW¼ of NE¼	30	16S	2E	MD
Los Laureles #5 Well; North 439,900 feet and East 1,187,200 feet	NW¼ of SE¼	29	16S	2E	MD
Los Laureles #6 Well; North 439,100 feet and East 1,188,050 feet	SE¼ of SE¼	29	16S	2E	MD
West Garzas #4 Well, North 434,850 feet and East 1,190,800 feet	NE¼ of SW¼	33	16S	2E	MD
Garzas Creek #3 Well, North 433,200 feet and East 1,191,650 feet	SW¼ of SE¼	33	16S	2E	MD
Panetta #2 Well, North 431,700 feet and East 1,193,350 feet	NW¼ of NW¼	3	17S	2E	MD
Panetta #1 Well, North 431,550 feet and East 1,193,250 feet	NW¼ of NW¼	3	17S	2E	MD
Robles #3 Well, North 426,700 feet and East 1,198,100 feet	NE¼ of NE¼	10	17S	2E	MD
Russell #4 Well, North 421,400 feet and East 1,202,650 feet	SW¼ of SE¼	14	17S	2E	MD
Russell #2 Well, North 421,000 feet and East 1,202,650 feet	SE¼ of SE¼	14	17S	2E	MD
(Point of Rediversion) Seaside Basin Injection Well; North 480,600 feet and East 1,173,300 feet	NE¼ of NE¼	23	15S	1E	MD
(Potential Point of Rediversion) New Fort Ord Test Injection Well; North 480,550 feet and East 1,173,700 feet	NE¼ of NE¼	23	15S	1E	MD
(Potential Point of Rediversion) Ord Grove #1 Well; North 479,850 feet and East 1,172,150 feet	NW¼ of NE¼	23	15S	1E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	110,000 acres within the boundaries of the Monterey Peninsula Water Management District					

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 550 acre-feet per annum (afa) to be collected to underground storage in the Seaside Basin at a maximum rate of 3.3 cubic feet per second from December 1, 2000 through May 31, 2001.

6. This permit expires 180 days from the date of its issuance or May 31, 2001, whichever comes first.

7. For the protection of fish and wildlife, permittee shall divert only when the minimum instream flow requirements described in SWRCB Decision 1632 on Permit Table B of 40 cubic-feet per second (cfs) is reaching the Carmel River Lagoon, as measured at the Carmel River, Highway 1 gauging station during the months of December through May 2001. To further preclude jeopardizing Carmel River Steelhead, MPWMD has agreed with inclusion of the following conditions, as measured at the Carmel River, Highway 1 gaging station. Year type definitions are those contained in D1632.

December in all year types - maintain 40.0 cfs to the Lagoon.

January through March in below normal, normal or wetter years - When an attraction event is projected, maintain 200 cfs to the Lagoon for the duration of the attraction event. Following an attraction event, maintain migration flows of 200 to 60 cfs to the Lagoon, depending on estimated natural recession rates. Following the migration period, maintain 40 cfs to the Lagoon.

January through March in Dry Years - same flow requirements as normal or wetter years except that:

- a. Whenever an attraction event is projected, maintain 200 cfs to the Lagoon in January, 100 cfs in February, or 75 cfs in March for the duration of the attraction event.
- b. Following the migration period, maintain 40 cfs to the Lagoon.

April and May in all year types - maintain 40 cfs to the Lagoon.

(0000005)

8. Permittee shall install and maintain measuring devices, satisfactory to the SWRCB, which is capable of (1) measuring the instantaneous rate of diversion and the cumulative quantity of water diverted to the Seaside Basin injection well(s) and (2) the cumulative quantity of water extracted from the Seaside Basin. Permittee shall also ensure that the Carmel River Highway 1 gaging station is operational at all times during the diversion season.

(0110900)

(0510900)

9. Permittee shall report to the SWRCB by July 1, 2001 the maximum rate of diversion and total quantity of water diverted under this temporary permit.

(0510900)

10. Permittee shall cease all diversions under this Temporary Permit at any time diversions are being made pursuant to Permit 20808.

11. The source of water for the test of the Seaside Basin injection/ground water recharge project is the Carmel River. All diversions and rediversions will be accomplished using California-American Water Company (Cal-Am) facilities and the water will be supplied to the Cal-Am service area. Therefore, Carmel River water diverted under this temporary permit shall be counted when evaluating compliance with the withdrawal quantities from the Carmel River by Cal-Am as set forth in Condition 1 of SWRCB Order 95-10. The amount of water diverted under this temporary permit credited towards Condition 1 of SWRCB Order 95-10 shall be the lesser of:

- a. The amount of water produced from the Seaside Basin in excess of 4,025 acre-feet of water (Cal-Am's share of the current estimated safe-yield of the Seaside Basin), or
- b. The total amount of the water diverted under this temporary permit during water year 2000-2001.

12. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

13. The SWRCB may supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this temporary permit.

14. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425 et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the SWRCB

(0510800)

15. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

16. Issuance of this temporary permit shall not be construed as indicating SWRCB approval of water right permits requested under other pending applications.

(0510999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be

assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

On August 9, 1999, the SWRCB adopted Resolution 99-031-3.2.22; delegating the Chief of the Division of Water Rights the authority to approve proposed temporary permits pursuant to Water Code sections 1425-(b), where no objections are outstanding and where it is found that: (1) there is an urgent need for the proposed diversion and use of water, (2) the proposed diversion and use of water may be made without injury to any lawful user of water, (3) the proposed diversion and use of water may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses, and (4) the proposed diversion and use is in the public interest.

The notice of application for this temporary permit was issued on September 13, 2000. Timely letters were received from the California Sportfishing Protection Alliance (CSPA) and Save Our Carmel River (SOCR). The letter received from CSPA recommended the inclusion of permit terms regarding minimum instream flow requirements prior to diversion under this temporary permit, compliance with relevant federal Endangered Species Act provisions, monitoring of daily flows and submittal of a summary compliance report. The letter received from SOCR indicated qualified support for the temporary permit conditioned on compliance with the withdrawal quantities from the Carmel River as set forth in Condition 1 of SWRCB Order 95-10. Since the issues raised by both these letters are addressed in conditions 7, 8, 9, 11, and 12 of this temporary permit, and after consultation with representatives of both CSPA and SOCR, these letters are not considered outstanding objections.

As chief of the Division of Water Rights, I conclude, based on the available information that:

1. There is an urgent need for the proposed diversion and use of water,
2. The proposed diversion and use of water may be made without injury to any lawful user of water,
3. The proposed diversion and use of water may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses, and
4. The proposed diversion and use is in the public interest

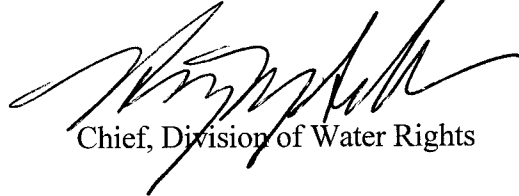
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Therefore, this proposed temporary permit is approved; subject to my jurisdiction to supervise the diversion and use of water under this temporary permit and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

Dated: **JAN 1 1 2001**

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights